

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

BOBBY G. and DYNNA MOORE,)
Plaintiffs,)
v.) Case No. 11-cv-208-JPG-PMF
R.G. BRINKMANN COMPANY d/b/a)
Brinkmann Constructors,)
NEGWER MATERIALS, INC.,)
DURA-STILT SALES LIMITED)
PARTNERSHIP, and)
IAM of PUERTO RICO, INC.,)
Defendants.)

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiffs' Response (Doc. 31) to the Court's Memorandum and Order (Doc. 30) of June 2, 2011. Defendant Negwer Materials, Inc. filed a Response (Doc. 33) thereto. Being fully advised of the premises and for good cause shown, especially the fact that Plaintiffs are not the proponents of federal jurisdiction, the Court **DISCHARGES** its order that Plaintiffs correct perceived jurisdictional defects in their Amended Complaint (Doc. 29).

That said, the Court is still not convinced that diversity jurisdiction exists. The party asserting federal jurisdiction has the burden of persuasion in establishing it. *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1194 (2010) (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)). In its Notice of Removal (Doc. 2), Defendant R.G. Brinkmann Company (“R.G. Brinkmann”) did not properly plead diversity of citizenship as a basis for federal jurisdiction. Specifically, although “limited partnerships are citizens of every jurisdiction of which any partner is a citizen[,]” *Ind. Gas Co. v. Home Ins. Co.*, 141 F.3d 314, 316 (7th Cir.

1998) (citing *Carden v. Arkoma Assoc.*, 494 U.S. 185, 195-96 (1990)), R.G. Brinkmann did not identify the members of Defendant Dura-Stilt Sales Limited Partnership (“Dura-Stilt”), let alone their citizenship.

For the foregoing reasons, the Court **ORDERS** R.G. Brinkmann to file a notice that alleges Dura-Stilt’s citizenship by **June 17, 2011**. Should it fail to do so, the Court will dismiss this matter for lack of subject matter jurisdiction.

IT IS SO ORDERED.

DATED: June 9, 2011

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE